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THE CHINESE SYSTEM OF ADMINISTERING JUSTICE

[Translation]

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FOREWORD

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THE CHINESE SYSTEM OF ADMINISTERING JUSTICE

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In China, under the present stage of development of Socialism, the activity and theoretical basis of the judicial organs are determined by the postulations developed by Mao Tse-tung in his speech before the expanded session of the Supreme State Council of the Chinese Republic, entitled "The Proper Resolution of Contradictions Among the People."

In this speech Mao Tse-tung deeply analyzed the character and types of contradictions between the people and the enemy, and contradictions among the people. The details of this highly significant analysis also are familiar in Hungary. The precise definition of these two types of contradictions is highly essential from theoretical and practical points of view.

In present-day China there are contradictions not only between the laboring population and the enemy, but among the laboring population, as well, such as between the labor class and the peasantry and between the intellectual personnel and physical laborers. These contradictions arise from the social differences which still exist between them.

Concerning the contradiction between the productive forces and production conditions of society, between the economic basis and superstructure, and the contradictions which arise from man's recognition of proper and erroneous, progressive and retarded views, these contradictions are of ancient origin, they exist at present, and they shall exist in the future.

In Socialist society, however, the character of these contradictions changes. Comrade Liu Shao-chi expressed the fact that "the view that under the conditions of the Socialist system, or after the complete cessation of existence of classes and the entrance upon Communist society there no longer will be contradictions among the people is an entirely erroneous viewpoint which is opposed to Marxism-Leninism."

In China the concept that one of the most important tasks of in the field of the activity of the organs of justice is the study of the method of the proper solution of the various contradictions which exist in society is generally accepted, and practice is in accord with this acceptance. It is emphasized that it must be learned how to recognize the contradictions first, and to search for the methods of their proper resolution. Only under these conditions may the antisocialist enimical forces be eliminated, the reeducation of the bourgeoisie, the upper strata of the petty bourgeoisie and the bourgeois intelligentsia be completed, and the social relationships among the people be organized.

If under the conditions of the dictatorship of the proletariat attention is not devoted to the clear definition of the boundary between the two different types of contradictions this may lead to errors.

Comrade Liu Shao-chi also developed the statement that "if we do not see the contradictions which exist between us and our enemies or if we consider these to be contradictions among the people, or if we do not understand that the method of isolation, differentiation, punishment and suppression must be applied to the contradictions which exist between us and our enemies, and if these are solved by the application of the methods which serve for the resolution of contradictions among the people, we unavoidably shall commit errors.

However, if we do not recognize the contradictions among the people, if we do not understand that different methods must be used for the resolution of contradictions among the people, or if instead of persuasion we employ suppression for the resolution of the contradictions, we also shall be unavoidably committing errors." The Chinese organs of justice work in accord with this. Their activity is characterized by the method of combination of severity and generosity. They express this in the following way: "severity in the fact of the severe, mildness for the mild, there is generosity in severity, there is strictness in generosity." This means that the viewpoint which recognizes only severity and no mildness whatever, only strictness and no generosity at all, or mildness without a trace of severity, and the viewpoints which go to extremes are incorrect.

The concept that the party and the law are theoretically indivisible is universal. In practice this gives rise to the fact that in every important question which arises in a judicial respect the party directing the dictatorship of the proletariat must decide, because only the party is able to understand the entire political situation and the relationship between the enemy and the people, to determine the tasks of the resolution of the contradictions which have arisen among the people and, based upon the situation as a whole, evaluate the individual components and on this basis protect the prestige of the Socialist system of administration of justice.

The harmful viewpoint of the "separation" of the party leadership from the organs of justice has been eliminated in China. Naturally, and this has been emphasized, the activity of the party differs theoretically from the activity of the organs of state, including the organs of justice. The role of the leadership of the party over the activity of the organs of justice may in no way be conceived to consist of the party's intervention in the concrete work of the organs of justice, or that the party carries out juridical tasks in their place.

The principle of the indivisibility of the party and the law means that the main lines of action of the organs of justice are determined by the policy developed by the Chinese Communist Party for the social and class conditions peculiar to China.

* * *

In studying the Chinese administration of justice the first thing which catches the eye is the fact that the number of cases which come before the courts is small in relation to the population of the country. The number

of criminal and civil suits is considerably smaller than in the socialist states of Europe. This phenomenon may be traced in part to historico-social circumstances and in part to factors which arise from the development of China.

(a) The development of civil law in China is retarded with respect to that of the European states. Prior to Liberation the feudal common law was in effect which in part had been assembled by the Manchu dynasty in 17th century law books. The power of administration of justice was exercised mainly by the feudal lords, and in civil cases was exercised by family alliances and by the various guilds.

Prior to liberation civil courts existed in China only in the large commercial cities, such as Shanghai and its vicinity. These civil courts brought decisions on the basis of laws promulgated for individual areas of commerce, which had been passed especially in the interests of the commercial bourgeoisie at the beginning of the 20th century.

Thus, there was hardly any development of a civil law heritage and civil law ideology in China, and no heritage developed according to which the peasantry, the overwhelming majority of the population, should claim state administration of justice in civil suit cases. This necessarily derived from China's feudal character.

(b) The further reason why such an heritage did not and could not develop must be sought in the material situation of the masses of the Chinese people. The masses of the Chinese people have lived in the greatest misery for thousands of years. Especially among the feudal and capitalist production conditions, where the reproduction rate is high, where the agricultural regions are constantly beset by natural disaster, and where 80 percent of China's population lives, the people were dying by the millions, including immediately prior to Liberation.

The entire population received sufficient food and starvation was permanently eliminated for the first time in the year of the "big jump." However, the standard of living of the population and the present status of development of the forces of production still do not equal the standard of living of the well developed industrial countries.

In the European socialist states, also, the majority of the cases coming before the courts refer to the material affairs of the citizenry. In China, where private ownership of the means of production has almost disappeared as a consequence of socialist development, and the citizens ordinarily have no significant personal property, the dispensation of civil justice is very limited in extent because of these reasons.

(c) The moral attitude of the Chinese people underwent a peculiar development in history, especially in the field of family legal relationships.

Prior to Liberation the basis of the family legal relationships was the unlimited personal prestige of the head of the family. The women and children, especially, were almost completely subordinate to the head of a large family, to the husband or father. There was no legal protection from

this patriarchal, feudal, family legal relationship which was shot through with religious elements, and state administration of justice in the field of family law was almost unknown.

This was completely changed with the liberation of China, with the great political revolution which took place, and with the democratic or socialist revolution. At present the Chinese family relationships are characterized by equal rights of man and woman, and by the relationships established in Europe, and especially in the socialist countries. Nevertheless, an heritage of the patriarchal, feudal family relationships which had lasted for centuries, has remained in the conscience of the laborers, so that in general the Chinese do not take family disputes before the state courts.

In the first years of the revolution, especially when the new family right law appeared, the number of divorces was fairly high. There was an especially large number of divorce suits which were aimed at dissolution of family relationships characteristic of the old, feudal system, and at termination of those marriages which were contracted forcefully at the desire of the parents, without the mutual attraction of the marriage partners.

The Chinese people still have a very high moral concept of marriage. It is also because of this that the number of divorce suits has dropped and divorces are increasingly rare, especially in recent years, when women enjoy complete equality of rights.

(d) As a result of the historical attributes of social development a peculiar collective viewpoint has developed among the masses of the Chinese, which is reflected in the high esteem of the social and moral value of the collectives and in their general recognition. Even in the past the frequent natural disasters, droughts, floods, etc., could be overcome only through various types of banding together of the people and the necessary cooperation of the people in China. In the past, the building of irrigation works for overcoming drought, and the building of dams to check the floods required the common work of great masses of people.

The social situation of the Chinese masses, the social cross-section of the Chinese rural areas, the interdependence of the people, and the low level of the productive forces all furthered the formation and consolidation of the viewpoint of cooperation based on common labors.

The Chinese poor peasant never had been individualistic. The peasant confederations and the mutual aid brigades belong to the Chinese heritage as social forms and methods to which the peasants turned to relieve the tragic circumstances of their lives.

It is also beyond doubt that the unprecedented rapid collectivization of Chinese agriculture had ideological roots reaching back to centuries of experience of the poor peasant population.

The socialist revolution, the policy of the Chinese Communist Party, and the peculiar character of the social organization are the result of the collective spirit living in the Chinese people, and the result of the fact that the collective is an exceptionally strong factor in the social life of China. The plant, the work brigade, the people's committee, the party group, the labor cooperative, etc., have a crucial influence upon the thinking, behavior and decisions of the individual. The collective is an important

factor in education and in the high level of development of the feeling of social responsibility, the possibilities and prerequisites of which are much greater in the social life of China than, for example, in the European socialist states. This social role of the collective has a significant limiting effect upon the activity of the organs of justice in China, and also influence the content and form of the work of these organs. This is expressed primarily in the fact that very many civil suit cases do not reach the courts, but are settled within the collective, with mutual satisfaction. The people turn first to the collectives for aid in their cases of dispute. On the other hand, the masses have a prominent role in the entire activity of the organs of justice.

The laborers especially claim the aid of the collective in labor law disputes. Labor law disputes generally do not come before the court. These all are settled by the plant reconciliation committees, and in the last resort are settled by the plant party organization leadership, the prestige of which is recognized even by non-party-member laborers.

The great confidence in the collective must be emphasized. It is the general opinion that the decision of the collective always is correct, and conforms to the social requisites which are coordinated with personal interests. The Chinese laborer always accepts the decision of the collective.

The various people's committees play a similar role, especially in disputes concerning the family or concerning marriage partners. The various organs of the people's communes, the work brigades of the people's communes, and all other social groups are of the same nature. Thus the collective decides in extremely varied matters, which contributes to the fact that the state administration of justice is not extensive.

(e) The traffic of the state courts dropped further in 1958. The establishment of the people's communes eliminated many social contradictions which had existed before the people's commune movement. These included contradictions such as disputes arising in connection with the purchase and sale of land, rental of land, infringement of boundaries, and similar matters.

In addition to the above the people's communes provide, partly free of charge, food, housing and in general the most elementary essentials for commune members, children and the aged. With this the dependency suits arising from family relationships have practically disappeared. Dependency suits between marriage partners also have been eliminated, because this also is provided by the communes.

In addition, various arbitration committees have been established in the people's communes, especially in the work brigades and in other organs, also, for deciding disputes arising between members of the commune, and even for the judgement of lesser criminal cases. All this has a deep influence upon the activity of the state courts.

(f) Finally, the theoretical separation of social contradictions also influences the state administration of justice. In criminal cases the first point sought is the type of contradiction which is embodied by the deed in question. If this cannot be said to be a general rule, nevertheless the public prosecutor strives to keep a charge from being placed in criminal

cases of lesser importance which arise from contradictions among the people. In this case the attorney commends the perpetrator to the collective for social education, which openly discusses the behavior of the perpetrator, determines the system according to which the person is to be reeducated, and indicates how the social damage caused by him is to be repaid. Because of the special moral concepts of the Chinese people, their high feeling of social responsibility, and the general prestige of the collective, this form of social education is exceptionally effective and produces surprising results. Only in this way may it be understood that in the city of Shanghai, with a population of 10 million, there are only two criminal and two civil councils of the court of second instance, and that in 1958 the city higher court heard only 55 appeals. The national capital, Peking, with a population of approximately 6 million, has only three civil and three criminal councils in the municipal court.

* * *

The general tasks of the people's courts and the people's attorneys are determined by the Constitution of the Chinese People's Republic, declared in September 1954. The administration of justice is exercised by the people's courts. According to the Constitution the task of the people's court is to bring a decision in civil and criminal cases, punish the guilty, decide civil law disputes, and thus guard over the people's democratic system, to uphold the public law and order, protect the rights and legal interests of the citizens, educate the citizens in all their acts to respect the law and voluntarily to observe the law, and to ensure the successful completion of the building of socialism and the socialist transformation of society in the country.

The structural organization of the people's courts conforms to the administrative divisions of the country.

China is divided into 22 provincial administrative divisions, 5 autonomous regions, and 2 cities which are directly under the administration of the government. The regional division of the courts in China conforms to this administrative breakdown. Thus there are a court of first instance, court of second instance, and a higher court in every province, autonomous region and city directly under the administration of the government, which are Peking and Shanghai. There are also county, municipal and autonomous region people's courts of second instance and people's courts of first instance conforming to the primary level of administration, and further, special people's courts, such as the people's courts for the military, the railroads, and water transportation. In addition, there is the People's Supreme Court of the Chinese People's Republic at Peking, which is responsible to and must account to the National People's Congress, and between the two sessions of the latter, to the Permanent Committee of the National People's Congress. The local people's courts are responsible to the local people's congresses of their own level, and account to these bodies of their work. The supreme court of the Chinese People's Republic is the highest legal forum, and controls the work of all local people's courts. Furthermore, all the individual people's courts control the functioning of subordinate courts.

This control activity is of special importance since the Ministry of Justice was abolished in the Chinese People's Republic, and each court is responsible for the performance of administrative duties with respect to the courts immediately subordinate to them.

The people's courts are independent, and are subordinate only to the provisions of the law. In the course of judicial proceedings every citizen is equal before the people's court, regardless of nationality, race, sex, occupation, social extraction, religion, education or financial status. The citizens of the 52 nationalities living in China have the right to use their own language in the course of judicial proceedings.

The people's courts openly discuss cases, except if otherwise provided by law. The accused has the right to defend himself. According to the constitution not only an attorney at law may defend the accused. In addition to defending his case himself, the accused may request some other person to defend his case, and he may be defended by some other person recommended by a social organ and who is recognized by the people's court. The accused may be defended by a close relative, by a member of the collective to which the defendant belongs, and may be defended by someone appointed for this purpose by the people's court, if deemed necessary by the latter.

According to the constitution the people's courts act in council. The council consists of a professional judge and two lay assessors selected from among the population. The lay assessors have the same rights as the professional judge.

Each bench consists of a president, two vice presidents, a chief magistrate and a magistrate. The chief magistrate corresponds to the Hungarian council-head judge. The president of the local people's court is elected by the local people's congress, which corresponds to the Hungarian council, and the president of the People's Supreme Court is elected by the National People's Congress. These organs also have the right to recall the court president, who is elected for a four-year term. The court vice presidents, chief magistrate and magistrate are elected and may be recalled by the appropriate level people's councils. The people's councils correspond to the Hungarian executive committees. The magistrates of districts, cities, and other administrative units are elected by the same process. The appointment of the court vice presidents, chief magistrate and magistrate at all levels occurs at the recommendation of the president of the court.

The sphere of authority of the Chinese people's courts, with the exception of the courts of first instance, is of mixed structure. According to this, as in Hungary, the court of second instance judges appeals of decisions brought by courts of first instance, and also act on the first instance, and also act on the first instance level.

The supreme court of the province, autonomous region and city directly under government administration decides appeals against the decision of the intermediate people's court, as the court of first instance, and also may act on the first instance level in cases in which the attorney for the people brings a charge before the higher court. The supreme court of the Chinese People's Republic judges appeals in cases in which a higher court acted

on the first instance level, and acts on the first instance level in cases in which the highest people's attorney brings a charge before the supreme court, and finally, judges protestations of legality submitted to it.

Legality committees function with each local people's court to ensure uniformity of practice in the domain of the court. The members of these committees are appointed and replaced by the people's congresses of the appropriate level, at the recommendation of the presidents of the local people's courts. The members of the judge's committee of the Supreme People's Court are appointed and relieved by the Permanent Committee of the National People's Congress, at the recommendation of the president of the Supreme People's Court. The members of these committees at all levels are appointed and recalled by the state organ superior to the state organ ordinarily authorized to make the appointments. The court presidents preside at the meetings of these committees. Attorneys of the public prosecutor's office also have the right to participate at the appropriate level in the debate at these meetings.

One of the most important tasks of the courts is the judgement of protestations of legality submitted to the local people's courts. The institution of protestation of legality is considerably broader in China than in Hungary. The court president involved, the president of the Supreme People's Court, the chief attorney of a superior public prosecutor's office, and the chief attorney of the Supreme Public Prosecutor's Office may submit a protest of legality against a decision brought by any court of first instance, court of second instance, and higher court.

A protest of legality is reviewed on all levels by the legality committee. If it finds the protest valid it nullifies the decision appealed in the protest of legality and directs the judge's council which took action in the case to bring another decision. Thus the protest always is judged by the legality committee of the court which brought the protested decision.

If the president of the supreme people's court submits a protest of legality against a decision brought by a lower court the legality committee of the Supreme People's Court may nullify the decision and bring a new decision itself, or it may direct the lower court to conduct new proceedings and to bring a new decision.

The structural organization, task and goal of functioning of the public prosecutor's office also is determined by the Constitution of the Chinese People's Republic. These generally correspond to the tasks of the prosecution organs of the other socialist countries. The Chinese People's Republic has a Supreme Public Prosecutor's Office, public prosecutor's offices corresponding to local, county, district, city, autonomic region and district, and other administrative levels, and special public prosecutor's offices. The supreme public prosecutor's office controls the observance of law in the ministries under the direction of the State Council, in the local state authority organs, and in the activity of the state officers and citizens.

The local public prosecutor's offices see to it that the resolutions and acts of the local organs of state authority conform to law and that the officers working within these organs and the citizens in general observe the law.

The task of the public prosecutor's offices is to conduct an investigation in criminal cases, institute proceedings, and to represent the prosecution. The public prosecutor's offices control the investigative organs to ensure that the latter act within the intent of the law in the course of the fulfillment of their obligations. Finally, they ensure that the sentence of the people's courts, the execution of the sentences pronounced in criminal cases, and the activity of the organs charged with correction of the sentenced through work shall be in conformity with the laws.

In addition, in China the public prosecutor's office represents the interests of the state and society in major civil suits. The local public prosecutor's offices are not subordinate to the local organs of state authority. Every public prosecutor's office functions under the direction of the public prosecutor's office superior to it, and they all are subordinate to the Supreme Public Prosecutor's Office. The Supreme Public Prosecutor's Office is responsible to the National People's Congress, and to the Permanent Committee of the National People's Congress. The chief attorney of the Supreme Public Prosecutor's Office is elected by the National People's Congress for a period of four years.

According to the constitution the chief attorney of the Supreme Public Prosecutor's Office participates in the meetings of the legality committee of the Supreme People's Court at which protests of legality are discussed. If the chief attorney of the Supreme Public Prosecutor's Office is not in accord with a decision of the committee he has the right to turn to the Permanent Committee of the National People's Congress and to request examination of the decision of the legality committee of the Supreme People's Court and to request that a new decision be made.

Thus in practice in China the decision of the highest judicial forum may be reviewed and changed by the highest organ of state authority. This may be understood only through examination of the Chinese legal concept which has evolved in connection with illegal judiciary decisions in general. This concept is quite different from the viewpoint that the state may consider a judiciary decision which is recognized to be wrong as valid in the interest of maintaining the institution of the legal power of the state. The Chinese viewpoint consequentially repudiates the familiar European theory of the power of law. It represents the theoretical viewpoint that all those means which may dull the legal weapons in the hands of the proletariat must be discarded. It does not accept the theory that the formal aspect of a legal decision must be given precedence over its content in the event that the legal decision does not correspond to the interests of society.

According to the Chinese this does not lead to relaxation of legal security, and a judgement recognized to be wrong, if upheld for the benefit of legal power or validity, can only harm legal security. In accord with this viewpoint the Chinese legal concept recognizes validity, as a formal

legal institution, only in the sense that in civil and criminal cases the parties to the dispute have no further legal recourse beyond the action of the court of second instance. On the other hand, there are many possibilities for rapid revision of illegal judgements with no formal restraint. These include, among others, "control proceedings conducted at the wish of the masses" in the examination of judgements brought at the level of the court of second instance. In addition, the presidents of higher people's courts may, partly at their own initiative and partly at the recommendation of the mass organizations, institute revision of valid judgements of courts of the first or second instance if these judgements do not conform to legality or to the interests of society. It is the task of the higher people's courts also to officially initiate examination of judgements brought by courts of first or second instance which do not correspond to the legal practice which has evolved in the given field.

In addition, the president of the Supreme People's Court of the Chinese People's Republic may bring a challenge against judgements which are illegal or which offend the interests of society and which were brought by the Supreme People's Court of the Republic. Every interested citizen also has the same right.

Despite this broad system of protest of legality such legality complaints placed with the Supreme People's Court of the Chinese People's Republic number only several hundred per year. This indicates partly that the courts are very circumspect in bringing their decisions, and partly that most contestable decisions are corrected at lower levels.

In China the possibility also exists for a court, at the recommendation of the public prosecutor's office, to revoke the punishment prescribed by itself if the behavior of the sentenced during the course of the execution of the punishment proves that his continued imprisonment is desirable for the purpose of his effective reeducation. On the other hand, at the recommendation of the public prosecutor's office the court may free the sentenced prior to completion of the punishment prescribed by itself in its own judgement if the reeducation which was the purpose of the sentence has been achieved before expiration of the punishment period.

In China everything is subordinate to the most important principle that the sole aim of punishment is education, and all legal means which are at the disposal of the organs of administration of justice must serve the attainment and realization of this aim.

The basis of the institution of "reformatio in peus" in the concept which has evolved in China also is similar to the above. The aspect of the appeal proceedings in China which is most interesting to us is the fact that the nullification of the judgement of a court of first instance is possible even if only the accused appeals against the decision. Thus Chinese law does not recognize the interdiction of "reformatio in peus", a civil achievement of Europe which has been adopted by many socialist states. According to the Chinese concept the application of this legal principle may hinder, in any given case, the effectiveness of the struggle against the enemies of the people. According to the Chinese viewpoint if, as a result of an appeal by the accused, it is discovered in the appellate court

that the punishment prescribed by the court of first instance was too light, then the interdiction of "reformatio in peus" may lead to a position in which the law, as a means of the dictatorship of the proletariat, could not satisfy its task. In the interest of no theory may it be condoned that the court may not prescribe deserved punishment against the accused.

* * *

The work style of the Chinese organs of administration of justice, and especially the method of discussion of the Chinese courts, are different from the European methods. The main elements of this method of discussion are the search for methods suitable for the resolution of the concrete contradiction, multifaceted, locally varying, and always accommodating to the particular nature of the given case, the debate, the convincing of the parties to the case with the assistance of the masses, individual and collective education, and the effective realization of the demands of class policy.

The masses have a prominent role in both criminal and civil suits in accord with the concept that only that may be proper and just which the masses also hold to be so, and that in actuality only the masses are capable of developing the form of that which is just and proper.

Thus in actuality it is not the members of the court, but the masses who ordinarily participate in the discussions, who develop the legal and mainly the social evaluation of any individual case, and the court summarizes the opinion developed by the masses and pronounces it in the form of a decision or sentence. The collective to which the accused or party to the suit belongs plays a role in the proceedings as early as the phase of preparation of the discussion. Upon the assistance of this collective rely the police or the attorney in the conduct of their investigation, and in collecting the necessary data for precise exposition of the case. The defenders also gather the data necessary for conduct of the defense in the same manner.

The important role of the masses is expressed in peculiar form in the court discussion of criminal and civil suits. The Chinese courts always conduct the hearing at a time when the interested or involved audience, which include members of the collective to which the accused or plaintiff belong, and inhabitants of the neighborhood or street where they live, may participate in the discussion.

It is extremely rare for the case to be heard in the court house, and the case usually is discussed on the site: at the work site of the accused, in public institution or school buildings, culture halls, in many cases in the party office, and in some cases in the dwelling of the accused or plaintiff. The discussion consists essentially of the debate of the participating audience, the collective, of the case. The activity of the court usually is limited to informing the audience of the essential facts concerning the judgement of the case, the facts of the case, and to illuminate the deed of the party to the case or the accused from the point of view of the law. The prosecuting attorney also informs the audience of the data gathered in the course of his investigation and which serve to prove the statement of the facts of the case.

After all this has elapsed the open debate by the audience, the "discussion" of the case, begins. In the course of this the deed of the accused is analyzed, and the danger to society is analyzed, from the point of view of the socialist moral concept. The subjective circumstances under which the accused may have committed the crime are debated. They then make a motion for punishment, and usually expose the social interrelationships of the crime committed by the accused with exceptionally convincing arguments. The discussion is very well disciplined. Those who wish to speak do not request permission from anyone, but stand to be heard one after another. When one person has finished what he has to say, another stands. In this manner the details of the case are developed in the discussion, the popular opinion of the deed committed by the accused is formed, and the discussion is concluded with no restraints and with no formal proscriptions.

The judge then summarizes the popular opinion which has been formed in this way, in his pronouncement of sentence, or decision. This is the "policy of the mass line" in the activity of the courts.

After the decision is pronounced a higher judge usually gives a talk before the audience, in which he elucidates the political and social moments of the decision. The decision usually is debated at plant meetings, also, which presents an opportunity for a larger group to express opinion concerning the justness of the decision.

Often, following such larger debate sessions, if the group finds the decision to be improper they submit a protest against the decision or resume the finding in another way. The decision usually is debated in the communes, also, in the event of the decision of the court in the case involving a member of that commune, and the decision is posted in writing in the housing area, whereupon meetings of the inhabitants are assembled for debate of the decision.

In civil suits the court also strives to educate the parties to the suit. According to the Chinese concept the civil suit is the general type of contradictions among the people. Thus in civil suits the task of the court includes a search for the proper resolution of social contradictions which have arisen among the people. It is the opinion of the Chinese that a decision cannot be good, and especially may resolve no social contradiction if both parties to a suit are not completely convinced of its justness.

The counseling with the parties to a suit best expresses the tone and method of civil suits in China. The general practice is for the court to invite the relatives, acquaintances, friends and members of the collective to which the parties to the suit belong, to the counselling. This is done by the judge especially in cases in which he considers that this would better further establishment of the facts of the case, or that this larger group would be more suitable for furthering the elimination of the contradictions. The meetings called by the judge in this manner are called "solidarity meetings."

If a problem involving a major principle must be decided within the limits of a civil suit the court calls large-scale debate meetings, with the participation of persons who are in similar legal situations.

The court usually continues civil suits until a socially proper justice is recognized by both parties, or until it convinces the parties to accept this justice. Thus the pronouncement of sentence is extremely rare in civil suits: usually a reconciliation is effected between the parties to the suit.

The roots for these methods must be sought in the Chinese concept of society. The development of these effective and surprisingly result-producing methods was assisted by the fact that after the victory of the socialist revolution in China all the legal statutes, laws and decrees which existed prior to Liberation were voided "at a single blow." Thus the formation of the new work style and of the methods in harmony with the socialist concept cannot be hindered by the statutes which came into existence under different historical and social conditions, the circumstances of bourgeois-feudalism.

An article in Renmin Ribao speaks of this in the following manner:

"Several right-wing jurists are airing it about that they do not intend by any means to deny the leading role of the Communist Party, but all in all they hold that the old jurisprudence and its representatives should not be destroyed "at a single blow." These jurists are devoting all their energies to galvanize into life the old law amid the new relationships, and wish to reconcile the old law system with the new. But how could the mutually drastically different laws and legal systems be brought to a common denominator?

We stand upon an entirely rigid viewpoint in opposition to the old bourgeois laws. The excellent revolutionary movement of the people already has destroyed at a single blow the old legal system, that main weapon of reactionary reign, together with the bourgeois authority, and there was a dire need for this.

Following reeducation the old jurists may be put to work in positions conforming to the results of their reeducation: this has no relationship at all to the problem of the old legal system. This was exactly the goal of the legal reform which was carried through not long ago.

The old jurists may successfully serve the new, the policy and laws of the people, only if they first criticize, review and deny their old legal views."

The number of law students in China is relatively low. According to 1958 data, of approximately 450,000 university students only somewhat more than 8,000 were studying law. However, slightly more lawyers than this are trained in China because of the existence of law colleges in addition to the universities. The heads of the organs of administration of justice are trained in two-year cadre-training schools. This cadre school corresponds to Hungary's earlier judge-and-lawyer academy.

From the foregoing it is understandable that China needs fewer lawyers than Hungary or the other European socialist countries.

The salient characteristics of the Chinese system of administration of justice may be summarized in the following:

1. An increased role and decisive significance of the masses in the entire mechanism of the suit, from establishment of the facts of the case to the bringing of a decision.

2. An active role of the masses in the execution of the judgement brought by the court.

3. A subordinate role of the procedural statutes, on the basis of the principle that the procedural statute may in no way hinder the realization of material justice concretely determined in accordance with the values of society.

4. Broad and multifaceted possibilities for changing the judgement brought by a judge which violates the interests of society or which does not meet the requirements of the laws.

5. The authority of the chief public prosecutor with respect to revision of a decision of legality made by the Supreme People's Court is not a judicial, but a supreme state authority right.

6. The sphere of authority of the collectives and of other social courts in the judgement of civil and criminal cases, and the decreasing tendency of the sphere of authority of state courts and the increasing tendency of the sphere of authority of social courts.

7. Among the types of punishment, social reeducation as a generally used punishment, in the case of deeds which fall in the category of contradictions among the people.

8. Unconditional realization of the leading role of the party in the activity of the organs of administration of justice, which is expressed in the fact that the organs of administration of justice on the various levels submit themselves to the leadership of the party committees of the corresponding levels.

The booming development of social life in China is exceptionally multifaceted, and it effects the field of administration of justice and form and content of the activity of the organs of administration of justice.

The source of the exceptionally broad and enormously rapid transformation is the logical Marxist-Leninist policy of the Communist Party, correctly applied in relation to the complex and peculiar class relationships of China, the unity of party and the masses, the diligence of the Chinese population, and their capability, political consciousness and inspiration. However, the source of this great jump ahead is the fraternal solidarity of the peoples building socialism, also, at the fore of whom is the Soviet Union. We felt the tremendous strength of this solidarity when in the largest steel mill of China we saw Soviet and Czechoslovakian machines, when we saw the gigantic ocean-going ships of the German Democratic Republic and of Poland in Shanghai's harbor, and this solidarity also was expressed by the Ikarus buses rumbling down the streets of China's large cities. All this reflects the historical fact that we are the people of a common, great world system, the socialist world system, and Moscow, Peking, Leningrad, Prague, Budapest and the other cities are individual points of this gigantic socialist world system, which are inseparably tied together by an identity of theory and principle.

When the ceremonial session of the National People's Congress, which was convoked on the occasion of the tenth anniversary of the liberation of China, came to an end and the last notes of the Internationale, sung in the languages of 63 different nations, died down in the enormous, 10,800-capacity council hall, everyone felt the tremendous power of this great world order.

In that ceremonial moment when the historic hymn of the labor movement first sounded the thought occurred to us, and the thought was transformed into a staunch conviction within us, that only the Communist idea expresses the new and true relationships between men and the solidarity of peoples, and with the Soviet Union at the fore the people of the socialism-building countries, like the undefeatable pioneers of historical development, are moving side by side toward the great distances and infinite heights of Humanity.

5200

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